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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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STAAS & HALSEY LLP

SUITE 700

1201 NEW YORK AVENUE, N.W.

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EXAMINER

KANG, PAUL H

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/802,929	Applicant(s) SAKAMOTO ET AL.	
	Examiner Paul H. Kang	Art Unit 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-58 of U.S. Patent No. 6,650,343. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the pending application is the same as the context of the prior patent. Claims 1-58 of US Pat. No. 6,650,343 contains every element of claims 1-24 of the instant application and as such anticipates claims 1-24 of the instant application.

“A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. *In re Longi*, 759 F.2d at 896, 225

Art Unit: 2144

USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). “ ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Endo et al., US Pat. No. 6,055,563, in view of Kamen et al., US Pat. App. Pub. No. 2002/0105551 A1.

5. As to claims 1, 14 and 24, Endo teaches the invention substantially as claimed. Endo teaches an information processing apparatus, program product and method for displaying a plurality of linked items of content in a virtual space in accordance with field-of-view data, said information processing apparatus comprising:

a first capturing unit for capturing description data (Endo, col. 5, lines 15-32);

a second capturing unit for capturing content data associated with the description of an item of content contained in said captured description data (Endo, col. 5, lines 33-58);

an image generating unit for generating an image of said item of content to be disposed in said virtual space, in accordance with said captured content data (Endo, col. 5, lines 33-58); and

determining unit for determining further data to be captured next in accordance with a condition contained in said captured description data (Endo, col. 5, line 59 – col. 6, line 24).

However, Endo does not explicitly teach a first capturing unit for capturing link description data and a determining unit for determining further data to be captured next in accordance with a condition contained in said captured link description data, wherein description data is a link description data. In the same field of endeavor, Kamen teaches a 3-Dimensional web-navigator comprising a first capturing unit for capturing link description data and a determining unit for determining further data to be captured next in accordance with a condition contained in said captured link description data (Kamen, paragraphs 0006-0007, 0035-0037).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the use of link data as taught by Kamen to retrieve data over a network as taught by Endo. Using the known technique of using link data, such as URL information, of Kamen to the virtual display of Endo would yield predictable results of providing the advantages of web-based navigation.

6. As to claims 2 and 15, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains a disposition and an

Art Unit: 2144

identification of further link description data, and a condition for capturing said further link description data (Endo, col. 5, lines 15-58; Kamen, paragraphs 0006-0007, 0035-0037).

7. As to claims 3 and 16, Endo-Kamen teaches the information processing apparatus and program product, wherein said further link description data contains a disposition and an identification of an item of content (Endo, col. 7, line 44 – col. 8, line 25).

8. As to claim 4, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains a disposition of an item of content and a condition for capturing said item of content (Endo, col. 7, line 44 – col. 8, line 25).

9. As to claims 5 and 17, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains a disposition of an item of content and contains as said condition a geometric metric range between said item of content and the current viewpoint for capturing said item of content (Endo, col. 7, line 44 – col. 8, line 25).

10. As to claims 6 and 18, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains dispositions of a plurality of items of content and contains as said condition a priority order of capturing said plurality of sets of content data (Endo, col. 6, lines 25-61).

Art Unit: 2144

11. As to claims 7 and 19, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains as said condition a reference position for preferentially capturing a closer item of content (Endo, col. 9, line 35 – col. 10, line 7).

12. As to claim 8, Endo-Kamen teaches the information processing apparatus and program product, wherein said captured link description data contains the descriptions of links to a plurality of items of content with different sizes (Endo, col. 12, lines 6-67).

13. As to claims 10 and 21, Endo-Kamen teaches the information processing apparatus and program product, wherein said determining unit determines priorities for capturing a plurality of sets of content data in accordance with said condition (Endo, col. 6, lines 25-61).

14. As to claims 11 and 22, Endo-Kamen teaches the information processing apparatus and program product, wherein when the geometric relationship between the current viewpoint and said item of content satisfies said condition, said image generating unit generates an image of said item of content (Endo, col. 5, lines 33-58).

15. As to claims 12 and 23, Endo-Kamen teaches the information processing apparatus and program product, wherein when a group of items of content has a priority order, said image generating unit generates an image of a last captured item of content among said plurality of items of content (Endo, col. 7, line 44 – col. 8, line 25; col. 6, lines 25-61).

16. As to claim 13, Endo-Kamen teaches the information processing apparatus and program product, wherein said first and second capturing units capture data over a network (Endo, col. 1, lines 6-10).

17. Claims 9 and 20 are rejected under 35 U.S.C. 103(a) as being obvious over Endo-Kamen as applied, and further in view of Fujita et al., US Pat. No. 6,650,343 B1.

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). This rejection might also be overcome by showing that the reference is disqualified under 35 U.S.C. 103(c) as prior art in a rejection under 35 U.S.C. 103(a). See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Art Unit: 2144

18. As to claims 9 and 20, Endo-Kamen teaches the invention substantially as claimed. However, Endo-Kamen does not explicitly teach the information processing apparatus and program product, wherein said second capturing unit determines a necessary resolution in accordance with the geometric relationship between the current viewpoint and the item of content and captures said content data at said resolution. Fujita teaches information processing apparatus and program product, wherein said second capturing unit determines a necessary resolution in accordance with the geometric relationship between the current viewpoint and the item of content and captures said content data at said resolution (Fujita, col. 25, lines 48-67 and col. 26, lines 32-36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used the resolution as taught by Fujita into the system of Endo-Kamen to improve the device by customizing image size for devices and specific applications.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H. Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2144

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul H Kang/
Primary Examiner
Art Unit 2144